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VIA EMAIL ONLY

Dear Sara,

I am writing in response to your letter dated May 4, 2011 in which you request information regarding certain "high priority" issues that are impacting DJJ youth. I too have concerns about the issues you raise and, consequently, arranged for meetings or teleconferences with knowledgeable DJJ staff in each area. On May 12 and 13, 2011, Cathleen Beltz and I met or teleconferenced with the following DJJ staff persons: Dorene Nylund, Tammy McGuire, Mark Blaser, Alicia Ginn, Mary Wandschneider, Eleanor Silva, Sharie Wise, Mike Minor, David Finley and Art Westerfield. On short notice, DJJ nonetheless made available to us information and documentation requested, which I reference here in response to your questions.

Issue #1: Education Services

You are correct that some youth at DJJ are not receiving the full 240 minutes of required education per school day. The number of students not receiving services would require a more in-depth analysis. The most significant deficits are occurring with special education students at Joanna Boss High School, N.A. Chaderjian High School, and Mary B. Perry High School and youth in restricted housing and high core units at the Ventura Correctional Facility.

Education experts, O'Rourke and Gordon noted in their recent audit reports<sup>1</sup> that youth in the three high schools listed above do not receive the full continuum of segments and services that are required in their Individual Educational Programs (IEP). Failure to provide the required credentialed personnel to provide services to special education students has resulted in an inability to achieve substantial compliance in these audit

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<sup>1</sup> See Section V Special Education of the audit reports for Chad, Joanna Boss and Mary B. Perry.

requirements.<sup>2</sup> Hiring freezes have made it difficult for the schools to hire needed special education staff.

A failure to provide required education requirements is also occurring at the Ventura Youth Correctional Facility behavioral treatment programs and for some youth in the high core units who are in temporary detention. There are several reasons for this failure.

First and foremost are the significant staffing challenges at Mary B. Perry High School. Despite the consistent and relentless efforts on the part of the Principal, Art Westerfield, the school does not have the level or type of staff required to address the unique and challenging needs of the special education or behaviorally challenging youth. The education experts noted that during their audit the high school had 20 vacancies and that impending retirements and resignations indicated the situation would only get worse. At the time of the audit, the Principal had managed to fill vacancies with 19 substitute teachers. On May 16, 2011, there were ten substitute teachers with long term assignments and seven with short term assignments.<sup>3</sup> Out of 32.5 teaching and specialist positions (FTE), vacancies of 20 positions are equivalent to a 62% vacancy rate.<sup>4</sup>

The hiring freezes combined with organizational downsizing have made it almost impossible for Principal Westerfield to hire teachers despite the favorable market conditions. A hiring freeze required Principal Westerfield to use substitutes to replace retired teachers and to address the increase in the youth population.<sup>5</sup> In December of 2010 an exemption from the hiring freeze resulted in approval to fill three positions. If exempted from the hiring freeze, Principal Westerfield could hire from lay off lists within CDCR as well as hire any qualified substitute teachers for full time positions.

While the efforts of Principal Westerfield to find substitute teachers are commendable, the impact on the youth at Ventura of not having a stable and consistent teaching staff is detrimental. Substitute teachers are often not equipped to work with such a challenging population.<sup>6</sup> The ability of substitute teachers to provide *effective* services with highly compliant students is challenging and more so with behaviorally challenged and anti-social youth. At the heart of the reform model is the ability of all staff to send consistent messages to youth regarding how to effectively manage their behavior. Educators are a key part of this process. They can be effective role models for youth. With staff shortages resulting in constant staff turn over, there is little chance for youth to bond with educators or for educators to effectively be part of the interdisciplinary treatment team which is at the heart of the reform model.<sup>7</sup>

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<sup>2</sup> See audit requirements, 2.8, 5.6-5.8, 5.19, and 5.22 in Chad, Joanna Boss and Mary B. Perry audits.

<sup>3</sup> Conversation on May 16, 2011 between Special Master Campbell and Principal Westerfield. Short term substitutes can only serve in their position for thirty days.

<sup>4</sup> Id. The 32.5 FTE was provided by Principal Westerfield to Special Master Campbell in the interview noted above.

<sup>5</sup> Id.

<sup>6</sup> Exacerbating the staffing shortages is the time spent replacing the substitute teachers who quit because they are not able to work with the delinquent population.

<sup>7</sup> See Order re: Integrated Behavioral Treatment Model Report Summary and Implementation Outline, May 2, 2010.

Another impediment to providing the required 240 minutes of education to non-high school graduates is the lack of educational classroom space for the behaviorally challenging youth. The Ventura Youth Correctional Facility is operating at almost maximum capacity. The facility lacks adequate classroom space<sup>8</sup> in several regards but the most challenging has been in the provision of education to those youth who are in temporary intervention programs (TIP) on the high core units or who are in behavioral treatment units (BTP). Because these youth are restricted from attending classes in the school complex, the education services are provided on the unit.

The rapidly changing demand for services delivered on the units creates unique and challenging demands for education and custodial staff.<sup>9</sup> The number of youth and type of educational services needed can and often does change every day. Services can sometimes be delivered in groups and other times must be individual. Without any classroom space on the units, facility staff members have been extremely creative in their attempts to deliver educational services. Closets, showers, store rooms, kitchen and dining spaces have all been used to deliver services. Clearly some of these spaces are inappropriate and create education and security staffing challenges for the facility.

At the present time kitchen and dining spaces are being used to provide education services in the BTPs. There is no space in a BTP that is fully resourced for education services. On the high core units there are no spaces to provide education services. Spaces where education services are currently delivered do not allow for efficient use of staff nor do they allow for effective teaching strategies. In a classroom, students can engage in different activities at one time. One can work individually while others work in a group. In the BTP this is somewhat possible in the dining room space but not in all areas. This means provision of education and custodial services must be provided serially and thus takes longer. In a time of fiscal constraint, this does not seem to be a wise use of resources. Typical educational tools that are available in a true classroom space are not available in the unit settings.

An issue that is of concern is the lack of technology support for Mary B. Perry High School. This is the only youth correctional facility without a half time technology manager. The school pays from its budget for this position but it is used as a regional coordinator that has many other responsibilities and as such, provides nominal support to the high school. The result of this is that there is no staff to perform the following critical technology functions:

- Identify and order needed software
- Maintain the student network
- Maintain distance learning equipment
- Install SMART boards that sit in storage unused

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<sup>8</sup> An agreement was reached by the parties to provide modular units to the Ventura Youth Correctional Facility (VYCF) to remedy this situation. The projected date for delivery of the units is June 2012. See April 2011 Parties Meeting minutes.

<sup>9</sup> The number of non-graduates fluctuates. If this number gets too high (over 15) there is not adequate custody staffing.

- Project school technology needs
- Support teachers to incorporate technology into classroom teaching strategies

Educational staffing shortages combined with lack of classroom space and technology support have combined to create a situation where students with special needs are not receiving their full complement of educational services and those services received are sometimes sub-standard. Finally, the severe staffing shortages at one high school compromise the ability of the entire facility to develop an integrated behavioral treatment model in the future.

#### Issues #2 and #4: Program Deficits/Extended Room Confinement and Accountability

Some DJJ youth do not receive the minimum required 180 minutes out-of-room time each day. The youth most impacted by DJJ's failure to provide services outside of youths' assigned rooms for *at least* three hours per day are those assigned to closed room (as opposed to open dormitory) facilities and/or those on Temporary Detention ("TD") or Temporary Intervention Plans ("TIP"). DJJ provided documentation generated from the Ward Information Network ("WIN") for 14 one-week periods between January 16 and April 30, 2011. The WIN charts deficiencies in the provision of required out-of-room time as percentages of total TD or TIP youth placements during which youth were provided fewer than the required 180 minutes out-of-room time daily.

WIN documentation shows that the most frequent failure to meet out-of-room requirements has occurred at Ventura Youth Correctional Facility. In the 14 weeks documented, there were 173 out of 1453 incidents during which youth on TD or TIP spent more than 21 of 24 hours confined to his or her rooms. Other DJJ facilities struggle to meet mandated services requirements as well: OH Close Youth Correctional Facility (43 out of 588 incidents); Preston Youth Correctional Facility (15 of 245 incidents); Southern Youth Correctional Reception Center and Clinic (10 of 198 incidents); and NA Chadcrjian Youth Correctional Facility (8 of 761 incidents).

In addition to documented deficiencies described above, questions persist about the accuracy of mandated services documentation and, in some instances, whether failure to provide mandated services is documented at all. In one instance, a youth reported to the OSM during an interview that he had been confined to his room for more than 24 hours prior to the interview. The OSM reviewed the mandated services records for the same youth, which showed the youth had been out of his room for one hour in the 24-hours prior to the interview. In itself, one hour falls short of DJJ's out-of-room requirements; however, when the OSM cross-referenced the mandated services documentation with the detailed "Unit Log Book," it was revealed that the youth had, in fact, been confined to his room for more than 24 hours and had not received the one hour noted in WIN. The OSM shared this finding with the facility Superintendent who immediately launched an investigation into the frequency of over-reporting provision of mandated services. The Superintendent and DJJ Central Office report that disciplinary action has been initiated against staff persons involved. In addition, Superintendent Finley has issued a memorandum requiring each program manager to assess daily whether youth will be

provided mandatory out-of-room time. In the event that managers anticipate being unable to provide services, they are instructed to inform Superintendent Finley immediately that he may redirect staff resources to ensure youth receive all required services daily.

To the extent that WIN reporting is accurate, the mandated services function is a valuable management tool both for facility administrators as well as DJJ's Director of Facilities. Prior to April 2011, DJJ Central Office staff reviewed on a monthly basis WIN mandated services reports from each DJJ facility. Based on this data, DJJ's Director of Facilities issued memoranda to facility superintendents advising them of deficiencies in the provision of services as compared to other DJJ facilities and reminding facility staff to document the reason(s) for each failure to provide youth fully three hours of out-of-room time. Unfortunately, CDCR's Office of Audits and Court Compliance, following a review and investigation, determined that DJJ Central Office failed to properly monitor to ensure the facilities' provision of out-of-room time for youth on TD and TIP by, for example, failing to issue "Corrective Action Plans" to support struggling facilities and remedy substantial deficiencies.<sup>10</sup>

The reasons for deficiencies in the provision of services system wide must be identified and the problem must be resolved immediately. At Ventura, specifically, administrators report that staff vacancies and lack of physical space require daily redirection of staff resources. Regarding physical space, in addition to lack of sufficient space to provide education services (discussed above) Ventura's youth assigned to the Behavior Treatment Program are unable to recreate outside of the building because the large outdoor recreation area is not equipped with sufficient safeguards against escape. Consequently, facility staff are forced to utilize such space as the shower and a converted laundry room to provide education and recreation services. An upgrade of the current BTP yards, and the provision of the planned modular buildings, if accompanied by sufficient staff to operate and monitor them, would help Ventura recover from some of the deficits addressed above.

The facility staffing shortage of 12-15 Youth Correctional Counselors requires the "inversing" (forced overtime) of at least 15 shifts per day for an average overtime rate of \$250,000, as well as an exhausted youth correctional team. The staffing shortage and lack of physical space also result in the insufficient provision of services and to youth being confined to their rooms for extended periods of time. The level and consistency of depriving youth the minimum requirements for time out of their rooms should have served as an indicator to CDCR-DJJ that there were problems at the Ventura facility that required investigation. DJJ has created a valuable information tool that if properly utilized by facility and Central Office administrators could help to avoid the type of disturbances and violence experienced in recent months.

### Issue #3: Medical Services

The medical experts report that high levels of institutional violence has resulted in the

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<sup>10</sup> Report, March 25, 2011

cancellation of medical appointments and the failure to reschedule youth for medical treatment on a timely basis. The medical experts have noted multiple incidents of cancelled medical appointments that required several months and multiple appointment rescheduling. Custody staffing shortages exacerbate the problem, limiting facilities' ability to move youth to and from medical appointments and treatment.

Please feel free to call with any questions.

Sincerely,  
Nancy Campbell